IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH DECEMBER 2007 / 37TH AGRAHAYANA 1929

Crl.MC.No. 3775 of 2007()

CC.626/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY

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PETITIONER/ACCUSED:

ASOKAN, S/O.PRABHAKARAN,
AMBATTUPARAMBIL,
KURUMASSERY,
PARAKKADAVU VILLAGE,
ALUVA.

BY ADV. SRI.S.SUDHISH KUMAR
SRI.K.Y.TOMY

RESPONDENTS/STATE & COMPLAINANT:

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1. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

2. SUHARA, W/O.ABDUL AZEEZ,
CHINGONATH VEEDU,
VETTIKKATTIRI DESOM,
CHERUTHURUTHY VILLAGE,
THALAPPILLY TALUK.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 18/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3775 of 2007

Dated this the 18th day of December 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 452 I.P.C. Cognizance was taken by the learned Magistrate as early as in 2004 as can be seen from the number assigned to the case by the learned Magistrate - C.C.No.626/2004. The petitioner was not arrested at the crime stage. Investigation was completed and final report was filed. Cognizance was taken by the learned Magistrate. The petitioner has entered appearance through his pleader. His application to condone his absence was dismissed. Reckoning him as an absconding accused, coercive processes have been issued against him by the learned Magistrate. The case against the petitioner has been transferred to the list of long pending cases. The same is now pending as L.P.No.35/06, submits the learned counsel for the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He was never informed of the pendency of the proceedings. He cannot, hence, be reckoned as an absconding accused. The petitioner is willing to surrender before the learned Magistrate and seek regular bail.

He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007